ADMINISTRATIVE REPORT

TO: Electoral Area Services Committee

FROM: J. Zaffino, Chief Administrative Officer

DATE: October 8, 2026

RE: Review of Board Policy - Building Permits Issuance West Bench, Sage Mesa, Husula Highlands, West Bench Estates (Policy No. P3740-00.02)

Administrative Recommendation:

THAT the EA Services Committee recommend that the Regional District Board's *Building Permit Issuance West Bench, Sage Mesa, Husula Highlands, West Bench Estates Area Policy* (No. P3740-00.02) be repealed;

AND THAT the *Geotechnical Report Requirements Policy* be referred to local engineering and development consulting firms for feedback;

AND THAT the outcomes of this consultation process be considered by the Electoral Area Services Committee prior to Board consideration of the *Geotechnical Report Requirements Policy*.

Alternative:

1. THAT the Regional District Board's *Building Permit Issuance West Bench, Sage Mesa, Husula Highlands, West Bench Estates Area Policy* (No. P3740-00.02) be repealed;

   AND THAT the *Geotechnical Report Requirements Policy* be adopted.

2. Status quo.

Purpose:

The purpose of this report is to seek direction from the Board regarding proposed revisions to its policy regarding the preparation of geotechnical reports and issuance of building permits in the Greater West Bench area.

Strategic Priorities: Operational

Statutory Authority:

Under Section 56 (Requirement for geotechnical report) of Part 8 (Building Regulation) of the *Community Charter*, if a Regional District has enacted a building regulations bylaw, a building inspector *may* require a property owner to provide a geotechnical report in support of a new development.

Such a report is to be prepared by a qualified professional engineer or geoscientist and is to certify that land that is subject to flooding, mud flows, debris flows, debris torrents, erosion, land slip, rockfalls, subsidence or avalanche, etc. may be used safely for the use intended.

If the report contains conditions that are to be met in order for the land to be used safely, the building inspector may only issue a permit subject to the following:

a) the owner of the land covenants with the municipality to use the land only in the manner certified by the qualified professional as enabling the safe use of the land for the use intended;

b) the covenant contains conditions respecting reimbursement by the owner for any expenses that may be incurred by the municipality as a result of a breach of a covenant under paragraph (a);

c) the covenant is registered under section 219 of the Land Title Act*.*

If a building inspector refuses to issue a building permit despite a report from a qualified professional determining that, subject to conditions being met the land can be used safely, an owner may appeal to the Board to direct the building inspector to issue the permit.

If a qualified professional determines that the land may not be used safely for the use intended, the building inspector must not issue a building permit.

Building Bylaw:

Under Section 9.3 (Requirement for a Registered Professional) of the Regional District's Building Bylaw No. 2805, 2019, a building inspector is authorized to require a report from a qualified professional in relation to the hazards identified under Section 56 of the *Community Charter*.

This is further supported by a building permit application requirement under Section 10.4 of the bylaw that an applicant "must … include geotechnical letters of assurance, in addition to a required geotechnical report, if the Building Official determines that the site conditions so warrant."

Background:

The Board's current *Building Permits Issuance West Bench, Sage Mesa, Husula Highlands, West Bench Estates Policy* (No. P3740-00.02) was implemented in 1992 and requires that a Regional District building inspector provide an applicant for a building permit with the following:

access to a copy of the Klohn Leonoff report and advise that he requires a report certified by a professional engineer with experience in geotechnical engineering on the proposed development.

The Policy subsequently requires the professional engineer prepare a detailed report certifying that the land may be used safely for the uses intended and outlines other considerations similar to those now found under Section 56 of the *Community Charter*.

Further, the Policy only applies to "zones 1, 2, 3, 4, and 5" as described in a report prepared by Klohn Leonoff Limited (see Attachment No. 1 to this report).

Finally, the Policy clarifies that it is not to be applied to the "repair or reconstruction of an existing building or structure or the construction of a deck, balcony, shed, carport or garage that does not contain any plumbing fixtures", *however*, this is not to preclude the Building Inspector from requiring a geotechnical report where they considers one is required.

West Bench / Sage Mesa Area Geological Hazards Review (1992):

It is understood that the Regional District, in 1991, commissioned an updated review of geotechnical hazards in the Greater West Bench community in order "to determine criteria for development, taking into account identified geological conditions and associated risks."

This was prompted by "a resurfacing of development pressures since the late eighties requires that previous studies be reviewed in relation to possible further development."

The contract to undertake this review was awarded to the firm of Klohn Leonoff Limited (consulting engineers), who recommended, amongst other things, that the Regional District adopt the "Study Area Zone Plan" (see Attachment No. 1), as the updated geological hazards map for the area, and to:

> *Inform residents of West Bench and Sage Mesa of the potential hazards and the associated risks that they expose themselves to, along with methods for mitigating the potential trigger mechanisms.*

It is this latter recommendation that is understood to have informed the Board's adoption of Policy No. P3740-00.02 a few months following its receipt of the *West Bench / Sage Mesa Area Geological Hazards Review* (1992).

West Bench Geotechnical Review (2022):

As part of a review of the Electoral Area "F" Official Community Plan (OCP) completed in 2018, it was recommended that "an updated technical assessment of geotechnical hazards in the West Bench / Sage Mesa area using new technologies (e.g., LiDAR) that were not available when the area was last assessed" be undertaken.

A *West Bench Geotechnical Review* (2022) was subsequently completed by Ecora Engineering Limited and recommended, amongst other things, that the Regional District:

- establish minimum report requirements for geotechnical studies; and
- create a publicly accessible database of previously completed geohazard and geotechnical reports.

Analysis:

In considering the Board's current Policy regarding the issuance of building permits in the Greater West Bench area, Administration considers it to have largely been superseded by the completion of the *West Bench Geotechnical Review* (2022).

For instance, the 2022 Review has replaced the findings of the *West Bench / Sage Mesa Area Geological Hazards Review* (1992) and now forms the basis of the geotechnical hazard classifications applied to the community.

Accordingly, the current Policy's requirement that property owners be provided with a copy of the 1992 report is seen to be outdated and no longer reflective of the most current geotechnical hazard information available for the community.

In addition, the *Community Charter* (introduced in 2003) otherwise outlines the statutory regulations that govern a building inspector's ability to require and respond to a geotechnical report prepared by a qualified professional, and this information does not need to be duplicated in a Board policy.

Further, the Policy reflects administrative practices from the early 1990s and prior to the widespread availability of digital records and online information.

At that time, local governments commonly acted as the primary repository and distributor of technical hazard studies whereas today, geotechnical hazard mapping, historical reports, and background studies are widely accessible through online databases and professional sources.

It is now standard practice for qualified professionals to independently obtain, review, and rely upon relevant background information as part of their professional due diligence.

As such, the requirement for a building inspector to provide copies of specific historical reports is no longer necessary and is considered administratively outdated.

Administration also notes that the Board has not attempted to prescribe the instances in which a Building Official may request a geotechnical report be completed for development on the silt bluffs located in Naramata or Kaleden. In light of the general shift to "professional reliance" adopted by the Regional District Board since 2004-05, Administration does not consider this aspect of the policy to remain relevant.

For these reasons, Administration is recommending that the current Policy No. P3740-00.02 be repealed in its entirety.

New Policy:

Further to the recommendations contained in the *West Bench Geotechnical Review* (2022), Administration favours the introduction of a new Board Policy to guide the preparation of geotechnical reports.

It is proposed that this Policy include the requirement for a signed Assurance Statement — as recommended in the *West Bench Geotechnical Review* (2022) — as, in the absence of such a Statement, there is limited scope for the Regional District to critically review a submitted geotechnical report under the professional reliance model.

Administration anticipates that this will address some of the uncertainty associated with interpreting submitted geotechnical reports and will help ensure that geohazards are being addressed in a consistent manner.

With regard to the establishment of digital and privacy standards, this is intended to support the Regional District's digital library of geotechnical reports, which is a recommendation in the *West Bench Geotechnical Review* (2022) to assist other professionals by ensuring that relevant information upon which judgements are made regarding hazard and risk are widely available.

Ideally, qualified professionals will remove personal information (e.g., private phone numbers or personal email addresses) of their client or author from a report prior to submission in order to ensure compliance with the *Freedom of Information and Privacy Protection Act*. Similarly, any copyright headers, proprietary watermarks, or "private and confidential" clauses should also be removed in recognition of the reports being part of the public record.

Alternative:

Conversely, the option of maintaining the current Policy is available to the Board, but is not recommended for the reasons outlined above.

Alternately, the option to repeal the current policy and not replace it is also available to the Board but, again, for the reasons outlined above, is not recommended.

Summary:

For the reasons outlined above, Administration supports the repeal of the *Building Permits Issuance West Bench, Sage Mesa, Husula Highlands, West Bench Estates Policy* (No. P3740-00.02) and the referral of the Draft *Geotechnical Report Requirements Policy* to development firms for feedback comments.

Financial Implications:

Financial implications have been considered and none were found.

Communication Strategy:

In accordance with the Administrative Recommendation, it is being proposed that communication of the proposed new policy will include:

- the creation of a dedicated web page (on rdos.bc.ca) providing an overview of the Geotechnical Report Library, including an anticipated list of FAQs addressing the proposed file privacy rules and copyright exceptions; and
- targeted notification of local engineering and development consulting companies requesting their review and feedback on the Draft *Geotechnical Report Requirements Policy*.

Will a PowerPoint presentation be presented at the meeting? Yes

Respectfully submitted:

C. Garrish, Senior Manager of Planning

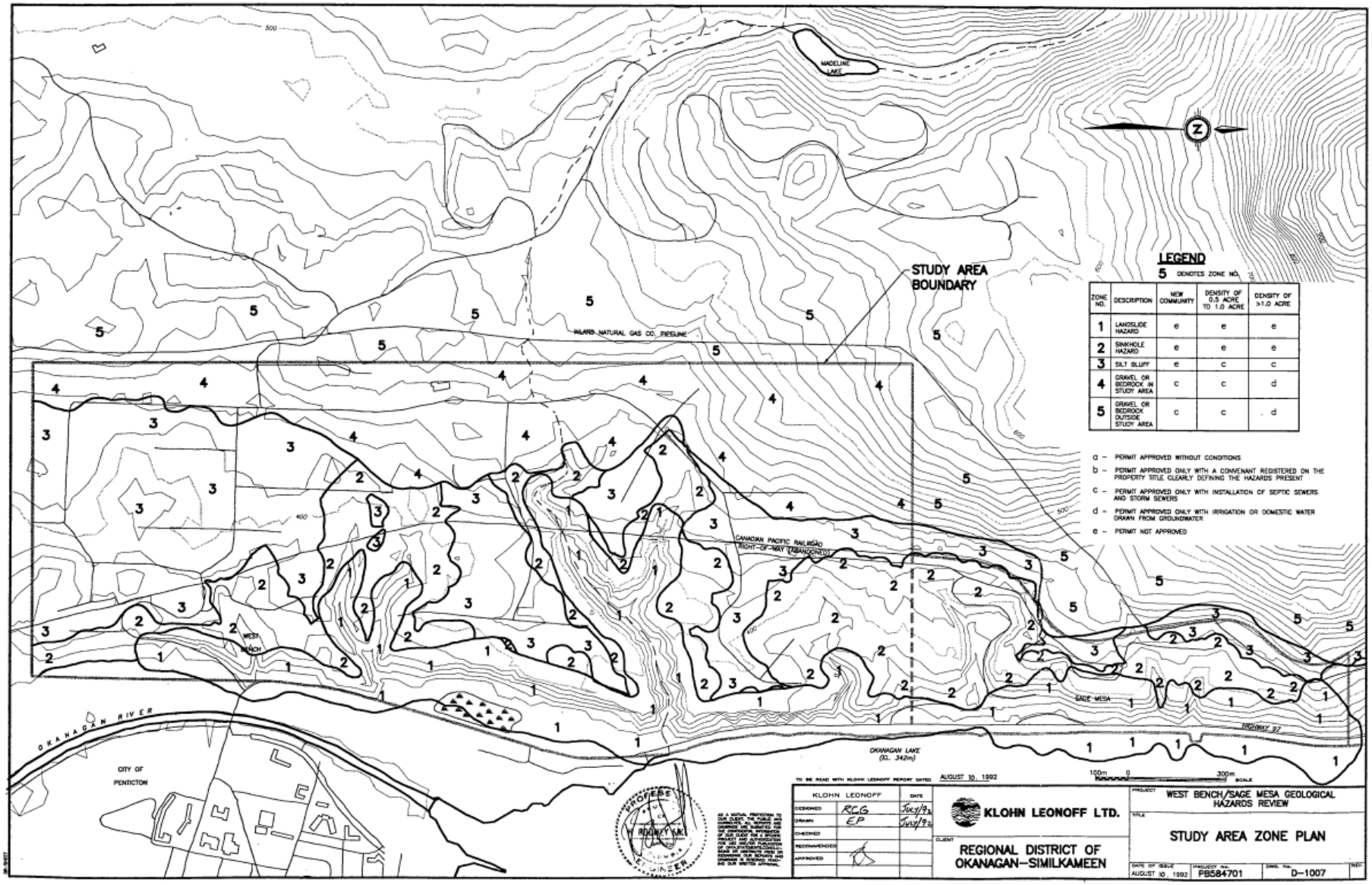
Endorsed By:

Allen Fillion

A. Fillion, Managing Director, Dev. & Infrastructure

Attachments: No. 1 – Study Area Zone Plan (Klohn Leonoff Report, 1992)
No. 2 – Building Permit Issuance on the West Bench Policy (1992)
No. 3 – Draft Geotechnical Report Requirements Policy (2026)

Attachment No. 1 – Study Area Zone Plan (Klohn Leonoff Report, 1992)



REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN
POLICY

POLICY NO: P3740-00.02

SUBJECT: Building Permit Issuance West Bench, Sage Mesa, Husula Highlands, West Bench Estates Area

The following Building Permit Policy applies to zones 1, 2, 3, 4, and 5 as described in the *Klohn Leonoff Report*:

1. Upon receipt of a building permit application for construction in the West Bench, Sage Mesa, Husula Highlands, West Bench Estates area, the Building Inspector will provide the applicant with access to a copy of the *Klohn Leonoff Report* and advise that he requires a report certified by a professional engineer with experience in geotechnical engineering on the proposed development. The professional engineer will be required to prepare a detailed report to determine and certify that the land may be used safely for the uses intended and to assess the impacts of the proposed development on adjacent and downstream lands.

    a) If the engineering report certifies that the development site, adjacent lands and downstream lands will be safe in the event of development subject to conditions set out by the engineer, the Building Inspector may issue a building permit on the condition that the owner of the land covenants with the Regional District to use the land only in the manner as may be determined and certified by the engineer as enabling the safe development of the land, adjacent land and downstream lands for the use intended.

    b) Upon receipt of a professional engineer's report, which determines that the land may not be used safely for the use intended or that adjacent and downstream lands may be rendered unsafe by the development, the Building Inspector shall refuse to issue a building permit and will advise the applicant in writing as to the reasons for the refusal. The Building Inspector will advise the applicant of the right to apply to the Regional Board for issuance of the permit.

    c) Upon receipt of an application, the Board will review the application and may approve or refuse issuance of the permit, taking into account the *Klohn Leonoff Report* and the specific geotechnical report on the proposed development. The Board will require that any conditions specified by the geotechnical engineer be satisfied and may require registration of a covenant under Section 215 of the *Land Title Act* in favour of the Regional District. The covenant may require the owner to indemnify the Regional District against any damage arising as a result of the development.

2. For the purpose of this policy

    a) "construction" shall mean:

        new construction of a building or the structural alteration or addition to an existing building, but does <u>not</u> include the repair or reconstruction of an existing building or structure or the

construction of a deck, balcony, shed, carport or garage that does not contain any plumbing fixtures.

3. Regardless of the provisions noted within this policy, where the Building Inspector considers that construction may be subject to hazards not referred to within the *Klohn Leonoff Report*, he may require the owner of land to provide him with a report as outlined in Section 734(2) of the *Municipal Act*.

REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN
BOARD POLICY

Policy: Geotechnical Report Requirements

Authority: Board Resolution No. XXXX

1. Policy Statement

Geotechnical reports submitted in support of development applications in areas identified as comprising hazardous conditions must adhere to the requirements of the *Community Charter* and be made available for inclusion in a publicly accessible online document library.

2. Purpose

To ensure that geotechnical reports are clearly addressing legislative requirements by confirming that the land may be used safely for the use intended (e.g. s. 56 of the *Community Charter*) and that submitted reports can be made available for public review, including by other qualified professionals, through an online document library.

3. Responsibilities

1. Building & Bylaw Services Division; and
2. Planning Services Division.

4. Procedures

When a geotechnical report is to be submitted to the Regional District in support of a land use, building permit or soil permit application, it should include the following confirmations:

1. that the report has been prepared by a qualified professional (QP), such as a professional engineer or geoscientist, with demonstrated experience in geotechnical engineering and geohazards;
2. that the QP is a member in good standing of their respective professional association;
3. that the report has been formally sealed by that professional;
4. that the QP has determined that:

   The land may be used safely for the use intended, and the proposed development will not render adjacent or downstream lands unsafe, subject to the conditions and recommendations set out in this report (as applicable).

5. that the report meets the following digital and privacy standards:

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a) Public Record Acknowledgement: the applicant and QP acknowledge that the report will be published on the Regional District's website and become part of the public record;

b) Privacy: the report does not contain any personal information of the property owner or applicant, such as private phone numbers, personal email addresses, or signatures (NOTE: professional contact information of the authoring firm is permissible);

c) Removal of Restrictions: the report does not contain any copyright headers, proprietary watermarks, or "private and confidential" clauses; and

d) Digital Format: reports must be submitted as a single, non-password-protected digital file in the ".pdf" format.

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